



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

May 6, 2003

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2003-3054

Dear Ms. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 180630.

The Texas Department of Public Safety (the "department") received four requests for information relating to applications for parent-taught driver education packets. You believe that the requested information may be excepted from disclosure under section 552.130 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.¹ We note that one of the requestors asks the department to provide the requested information on a monthly basis. Chapter 552 of the Government Code does not require the department to release information that did not exist when a request for information was received or to comply with a standing request to provide information on a periodic basis. *See Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismiss'd); Open Records Decision Nos. 476 at 1 (1987), 452 at 3 (1986).

Section 552.130 of the Government Code is applicable to information that relates to motor vehicle records. This section provides in part:

- (a) Information is excepted from [required public disclosure] if the information relates to:

¹This letter ruling assumes that the submitted representative samples of information are truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the department to withhold any information that is substantially different from the submitted information. *See Gov't Code* § 552.301(e)(1)(D); Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state[.]

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

Gov't Code § 552.130. Generally, under section 552.130, the department would be permitted to release information relating to a Texas driver's license only if, and in the manner, authorized by chapter 730 of the Transportation Code.

The purpose of chapter 730 of the Transportation Code, also known as the Motor Vehicle Records Disclosure Act, is to "protect the interest of an individual in the individual's personal privacy by prohibiting the disclosure and use of personal information contained in motor vehicle records, except as authorized by the individual or by law." Transp. Code § 730.002. Section 730.003 of the Transportation Code provides that, for purposes of chapter 730:

(1) "Agency" includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency or political subdivision of this state, that compiles or maintains motor vehicle records.

...

(4) "Motor vehicle record" means a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include:

(A) A record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601 [of the Transportation Code].

...

(6) "Personal information" means information that identifies a person, including an individual's photograph or computerized image, social security number, driver identification number, name, address, but not the zip code, telephone number, and medical or disability information. The term does not include:

(A) information on vehicle accidents, driving or equipment-related violations, or driver's license or registration status; or

(B) information contained in an accident report prepared under Chapter 550 or 601.

Id. § 730.003(1), (4), (6). Section 730.004 provides as follows:

Notwithstanding any other provision of law to the contrary, including Chapter 552, Government Code, except as provided by Sections 730.005-730.007, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Id. § 730.004. Thus, except as provided by sections 730.005 through 730.007, section 730.004 does not permit the release of "personal information" obtained by an "agency" in connection with a "motor vehicle record."

In this instance, you inform us that section 521.205 of the Transportation Code authorizes the department to approve driver education classes that may be taught by a relative or guardian of a person under 18 years of age. *See* Transp. Code § 521.205; *see also* 37 T.A.C. § 18.21 *et seq.* You explain that a parent-taught driver education packet is obtained by submitting an application form to the department and paying a fee. When the department receives the application form, the information is entered in a database, and the application is assigned a number from a certificate of driver education that the instructor must complete. The information from the application and certificate are sent to the driver's license office specified on the application form where, assuming successful completion of the course, the student will obtain a driver's license. You state that when the instructor signs the certificate indicating successful completion of the course, information from the original application for the parent-taught packet is used to generate the student's Texas driver's license.

Based on your representations, we find that the submitted information is related to Texas driver's licenses under section 552.130(a) of the Government Code and thus may be released only if, and in the manner, authorized by chapter 730 of the Transportation Code. *See* Gov't Code § 552.130(b). We find that the department is an "agency" for purposes of chapter 730. *See* Transp. Code § 730.003(1). Furthermore, the submitted information qualifies as a "motor vehicle record," as defined by section 730.003(4). Therefore, to the extent that the submitted information consists of "personal information" under section 730.003(6), the department may not release such information except as required or authorized under chapter 730 of the Transportation Code. *See id.* § 730.004; *see also id.* §§ 730.005, .006, .007. You state that the requestors have not demonstrated their eligibility to receive information under chapter 730. We therefore conclude that all responsive "personal information," as defined by section 730.003(6), must be withheld from disclosure under section 730.004 of the

Transportation Code. We have marked the types of information that the department must withhold. The submitted information that does not constitute personal information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

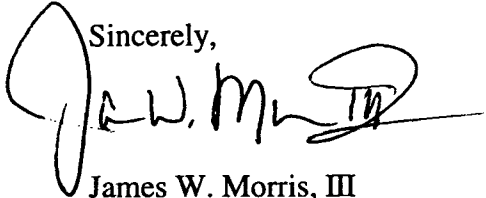
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris, III". The signature is fluid and cursive, with a large initial "J" and "W".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 180630

Enc: Submitted documents

c: Mr. Patrick Barrett
Driver Ed in a Box, LLC
800 Wilcrest, Suite 165
Houston, Texas 77042
(w/o enclosures)

Mr. Steve Williams
National Driver Training Institute
4432 Austin Bluffs Drive
Colorado Springs, Colorado 80918
(w/o enclosures)

Mr. Tommie L. Alfred
Curtis 1000
5150 Blalock Road
Houston, Texas 77041
(w/o enclosures)